



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/402,155 | 12/06/1999 | ANDREAS POHL | BAYER10.202 | 5605 |

7590

06/04/2002

NORRIS MCLAUGHLIN & MARCUS, PA
220 EAST 42ND STREET
30TH FLOOR
NEW YORK, NY 10017

EXAMINER

PEZZLO, BENJAMIN A

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 06/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/402,155

Applicant(s)

POHL ET AL.

Examiner

Benjamin A Pezzlo

Art Unit

3683

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "said coupling element" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Shtarkman (US 4869476).

Shtarkman discloses a spring/mass vibratory force coupler, see Fig. 1, with variable damping and variable spring stiffness for coupling masses to a reference mass, comprising at least a vibratory mass 12, a damper 30, two springs 22 and 26, wherein the damper 30 is attached to the vibratory mass 12 and one of the two springs 22 is connected between the damper and the reference mass, the coupling element being based on electrorheological or magnetorheological fluid.

Art Unit: 3683

Re claims 2-3, the mass of spring/damper element 30 provides an absorber mass which can be connected up by a voltage applied thereto.

Re claim 4, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have add any number of concentric spring/damper element in order to apply the device to the damping requirements of a particular system (see claim 1, "a plurality of sealed chambers").

Re claim 5, see Fig. 10, gas spring 204 and torsion spring 32a.

Re claim 8, the damper is connected to an engine.

Response to Arguments

4. Applicant's arguments filed April 2, 2002 have been fully considered but they are not persuasive. Applicant again argues that the spring members of Shtarkman are not springs. Applicant has also added the limitation to claim 1 that the coupler includes variable spring stiffness. Note that this is accomplished by Shtarkman by activating the ER or MR fluid which then varies the spring rate provided by the springs.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone numbers for the

Application/Control Number: 09/402,155

Page 4


Art Unit: 3683

organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BAP

May 28, 2002


JACK LAVINDER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
5/30/02